

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Albarr-ali Abdullah, #191449,)	C/A No.: 2:08-3085-MBS
)	
Plaintiff,)	
)	
vs.)	
)	
Director Jon Ozmint; Warden NFN)	O R D E R
Cohen; Ms. Montouth; Ms. Mixon;)	
and Ms. Gornsey,)	
)	
Defendants.)	
_____)	

Plaintiff Albarr-ali Abdullah is an inmate in custody of the South Carolina Department of Corrections. Plaintiff, proceeding pro se, alleges that a grievance pending in the South Carolina Administrative Law Court was dismissed because his legal mail was held until his filing deadline had passed. Plaintiff seeks money damages pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Robert S. Carr for pretrial handling.

Plaintiff has paid the full filing fee of \$350.00. Accordingly, the Magistrate Judge informed Plaintiff by order filed October 2, 2008, that Plaintiff would be responsible for service of process. Plaintiff was advised that Fed. R. Civ. P. 4(m) provides that a complaint must be dismissed without prejudice, absent a showing of good cause, if the complaint is not served within 120 days after it is filed. By order filed January 15, 2009, the Magistrate Judge noted that 120 days had passed and that Plaintiff had provided no evidence that copies of the summons and complaint had been served on Defendants. The Magistrate Judge allowed Plaintiff an additional twenty days in which to properly effect service. Plaintiff did not respond to the January 15, 2009 order.

On February 11, 2009, the Magistrate Judge issued a Report and Recommendation in which

he recommended that the within action be dismissed pursuant to Rule 4(m). Plaintiff filed objections to the Report and Recommendation on February 20, 2009.

On August 19, 2009, the court extended the period of service for sixty days and directed the Clerk of Court to re-issue summonses to Plaintiff. On September 15, 2009, Plaintiff provided proof of service to the Clerk of Court. Plaintiff now has complied with the Magistrate Judge's instructions. Accordingly, the court declines to adopt the Report and Recommendation of the Magistrate Judge that the case be dismissed pursuant to Rule 4(m). The case is hereby committed to the Magistrate Judge for further pretrial handling.

Plaintiff is cautioned that he must follow the directives of the Magistrate Judge and comply with applicable civil rules and procedures.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

September 17, 2009.